

Pay + Allow!! 11-15-5496A

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4 March 1953

OGC Has Reviewed

Memorandum for: Deputy Director (Support)

Subject : Hardship Claim - 25X1A9A

1. This case involves a claim by the subject for per diem for his wife for a period of three weeks the couple spent in [] in February 1953. Five offices have commented on this case and, in all but two of these comments, a difference of opinion exists as to the facts. It seems desirable, therefore, to review the factual situation and suggest the points which need clarification before a proper decision can be made.

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2. The field recommends allowance of the claim on the ground that there was in fact uncertainty as to the location of Mr. []'s new post when he and his wife reached []. It is further stated that he remained in [] only until this uncertainty was clarified. The Chief, NEA, states that [] stopped in [] en route to [] on TDY for the purpose of receiving initial briefing. The Chief of Administration (DD/P) reiterates that []'s ultimate destination was undecided and also that he stayed in [] for area briefing. And he adds that protocol prevented []'s wife from going on ahead of him to []. The Chief of the Finance Division states that no uncertainty could exist as to []'s ultimate destination because his file contains a Request for Personnel Action dated 22 December 1952 and approved 4 January 1953 changing []'s station from [] to []. The Chief of the Finance Division states, as an added reason for disallowance, the fact that, if [] had been entitled to a temporary lodging allowance, the amount would have been less than the amount he received as per diem. The Comptroller, in declining to recommend exercise by the DD/S of his authority under Regulation [] to pay the claim, appears to rely on the allegation that []'s destination was known before he departed from Washington.

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3. Now, to decide this case, I suggest that answers should be found to the following questions:

- (1) Did [] know before his departure from Washington that his post would be []? 25X1A6A
- (2) Did the Mission Chief in [] know what [] post was to be at the time of []'s arrival in []? 25X1A6A 25X1A9A 25X1A
- (3) Did [] have a certified security or operational reason to take his wife with him to []? 25X1A6A 25X1A9A
- (4) Did protocol in fact permit []'s wife to precede him to []? 25X1A6A
- (5) Is it usual to go to [] without passing through []? 25X1A6A
- (6) Was [] detained in [] on orders for area briefing? 25X1A9A 25X1A6A

4. If the answers to questions (1) and (5) are yes, the claim should be denied since [] had no business going to [] at all. Moreover, other consequences follow. If the answers to questions (2) and (4) are yes, the claim should be denied. If the answer to question (2) is yes and to question (6) is no, then the claim should be denied and recovery should be had for the per diem paid to [] himself since he must be considered to have been on annual leave. Question (3) is relevant only if the answer to question (5) is yes.

5. If the answers to questions (4) and (5) are no, then the claim should be allowed unless the answer to question (6) is no. Such allowance would be based on [] and the unfortunate fact that uncertainty in [] is a state of mind which is not related to the presence or absence of a Request for Personnel Action in a file in Washington, D. C.

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Assistant General Counsel

Attachments

OGC:CFB:cst

cc: Comptroller
Legal, Vital
Subject, ✓ Signer
Chrono